



# ***General Rules & Policies***

Revised November, 2010

## **PARTICIPATION POLICIES**

**Dealer's Auction:** Only authorized representatives of licensed dealers whose applications have been approved are allowed to participate in the Auction. *Retail Buyers are prohibited.* At no time shall a dealer bring a retail buyer to the auction on sale day.

**Auction Disclaimer:** All representations and warranties are made by or on behalf of the seller. Buyer is solely responsible for verifying all representations and warranties in a timely manner.

**Terms of Sale:** A sale is final only upon receipt of buyer's payment. All of the terms of sale printed on the front and back of the invoice or in this manual are binding on all parties to each transaction at this Auction.

- ❖ Title and rights of ownership do not pass to buyer until payment has cleared and funds are delivered to auction.

**Outside Sales:** The appropriate Sales and Buyer's fees are payable to the Auction on any transaction where contact is made on the Auction premises, whether or not the vehicle is sold on the Auction block.

***\*Consigned vehicles cancelled or withdrawn on sale day will be charged all registration and no-sale fees.\****

**Enforcement:** The Auction reserves the right to enforce, interpret or waive these rules and policies according to the circumstances of each transaction in order to assure equitable treatment of all parties. Any dealer found in violation of the auction policies may be barred from the auction at the sole discretion of auction management.

**Agency Relationship:** The Auction is acting as the agent of the Seller or Buyer, and may upon verbal or written instructions sign documents on their behalf in order to complete a transaction.

**Participant's Release and Waiver of Liability / Assumption of Risk and Indemnity Agreement:** Dealer, its representatives, agents and/or guests acknowledge that there are assumed risks when attending an auto auction that may cause serious injury, and in some cases death, because of the unpredictable nature of motorized vehicles and the inherent dangers of auction personnel and dealers driving vehicles, consigned or owned by the auction, in a densely-populated pedestrian area. Knowing, or having reason to know, these facts, Dealer, its representatives, agents and/or guests voluntarily assume the risk of danger of injury or death inherent in attendance at the auction.

**Children:** For their safety, children under 14 years old will not be allowed into the auction.

**Possession and Risk of Loss:** Until sold, a vehicle is deemed to be in the possession of the Seller and at his risk of loss, even though it is at the Auction. Upon execution of the sales agreement by a Buyer or his agent, the possession and risk of loss transfer from the Seller to the Buyer. The Auction will not be liable for mechanical breakdown of vehicles during or after transport of the vehicle. The Auction will perform due diligence in terms of checking fluids prior to transport, but will not be liable for breakdown outside of Auction negligence.

**Test Drives:** Test drives are not allowed due to safety concerns. Dealers may start vehicles but should not move them from their assigned parking space. The arbitration policy is designed to give buyers various levels of protection against mechanical issues, depending on how the vehicle is declared by the seller. Buyers are cautioned to read and listen to all announcements as a vehicle crosses the auction block, and to be aware that "Red-Light" (or "As-Is") vehicles without a "Limited Transmission/Transfer Case Guarantee" will not be arbitrated for any mechanical issues, whatsoever.

**Vehicle Sabotage/Parts Theft:** Any person found tampering with or sabotaging a vehicle will be subject to immediate and permanent expulsion from the Auction. Auction reserves the right to use and review audio/video documentation when investigating vehicle tampering/sabotage, or for use in arbitration decisions.

## **CONSIGNING A VEHICLE**

All consignors are required to complete a “Vehicle Consignment Form” at the time a vehicle is dropped at the Auction. On this form you will be asked to give your dealership name, vehicle description, VIN#, mileage, and declarations (i.e. frame damage, repaired frame, flood damage, unknown miles, reconstruct title, etc).

You will also be asked to provide a minimum price that you will accept for the vehicle (sometimes referred to as a floor, minimum, reserve, or protect price). You may also elect to “pure sale” the vehicle, in which the auctioneer will sell the vehicle for the highest bid.

### **A few notes about successful consignors:**

**Sellers who represent** their vehicles accurately, sell consistently, and set realistic prices earn the buyers’ trust and enjoy more success at auction.

**Set Realistic Floor Prices:** Sellers who consistently set floor prices that are not met by the bidders will soon find no one bidding on their vehicles, as they consider participation a waste of time.

**Integrity Selling Pays Off:** Properly and fully disclosing the condition of a vehicle gives buyers confidence, and will, in the long run, gain a positive reputation for the seller and his or her vehicles. Buyers will seek out these sellers and regularly purchase their inventory.

On the “Vehicle Consignment Form” you will also be given three options on how you would like to represent your vehicle. Below you will find the three selling options and their descriptions:



**24hr Mechanical Guarantee Vehicles** are sold with a 24 hour mechanical guarantee. *Vehicle must be no more than 10 calendar years old and must have less than 100,000 miles to be eligible.* Auction must be notified of a request for mechanical arbitration by 5pm the day after sale. There is also a seven day frame guarantee on vehicles selling for \$2000 or more only, unless otherwise declared. (See auction arbitration policy for specific details).



**As-Is Mechanical, with the exception of a Limited Guarantee on Transmission and Transfer case.** Transmissions and Transfer cases must be operational, but may have worn parts or components (automatic and manual transmissions must not slip). Auction must be notified of a request for transmission/transfer case arbitration by 5pm the day after sale. There is also a seven day frame guarantee on vehicles selling for \$2000 or more only, unless otherwise declared. (See auction arbitration policy for specific details).



**As-Is Mechanical Vehicles** are sold with **no mechanical guarantee.** However, there is a seven day frame guarantee on vehicles selling for \$2000 or more only, unless otherwise declared. No mechanical or frame guarantee on any vehicles sold at public sale. (See auction arbitration policy for specific details).

## PRICING AND OFFERS

**Price:** Unless announced otherwise, all vehicles are subject to consignor's minimum price or protection. All vehicles will be sold within \$100 of the consignor's price unless marked "FIRM".

**If or On-Call Offers** will be defined as a pending sale in which a high bid was recorded at the auction block, but was subject to the seller's acceptance at a later time. If the high bidder does not desire to have his bid recorded "On-Call", the bidder must immediately notify the auctioneer of his request, **prior to the auctioneer starting the bidding on the next vehicle**. The auction must notify the high bidder that the seller has accepted or rejected the bid **by noon** the day following the auction. *If the seller accepts the offer recorded at the block, the sale is binding.* If the seller counters the high bidder with a different offer, the high bidder may accept, counter back, or walk away from his original bid.

**Lot Sales/Outside Sales** will be defined as either: 1) a vehicle selling to a buyer who was *not* the high bidder recorded as the vehicle crossed the auction block; or, 2) a vehicle that has sold through the auction, but has never crossed the block. *Lot Sales/Outside Sales* are not binding until the buyer has signed the Auction sales receipt.

## SELLER'S DECLARATIONS

Sellers are solely responsible for the accurate representation and description of each vehicle consigned and offered for sale.

**The following conditions must be declared and are subject to arbitration on all vehicles selling at the auction, regardless of the vehicle's age, selling price, or whether the vehicle is being sold "As Is". Sellers must declare the conditions listed below in writing.**

- **Unknown Miles or Mileage Exempt title**
- **Salvage/Junk Title** (Also includes history of previous Salvage/Junk title in another state)
- **Inoperative Odometer**
- **Air Bags Deployed or Missing.** (Proper replacement/repair is not an arbitration issue)
- **Missing VIN#** (Riveted plate on dash; does not include missing doorjamb stickers).
- **Fuel Conversion** (A vehicle converted from one fuel use to another)
- **Canadian Import** (Canadian vehicles that are 5 years old and less (Must have a U.S title and meet U.S. standards))
- **Branded Title** (Any brands appearing on the title, or which *will* appear on the title).
- **Police or Taxi** (A prior taxi or police car).
- **Lemon Law/Warranty Return:** A vehicle that has been declared a warranty return.
- **Bio-Hazard** (both cleaned and currently contaminated)

**Additionally, the following conditions must also be declared and are subject to arbitration for vehicles *selling for \$2000 or more*, regardless of the vehicle's age, or whether the vehicle is being sold "As Is":**

- **Frame/Unibody Damage or Repair** (See NAAA Structural Damage Policy)
- **Flood Damage** (A vehicle that has been immersed in a flood above the floorboards)

Auctioneer should be immediately notified of any errors or omissions. Vehicles sold without proper announcements are subject to arbitration.

The auction may, at its sole discretion, choose to rescind any sale deemed to be made subject to material misrepresentation or concealment regardless of the cause of such misrepresentation.

## **TITLE POLICIES**

**Seller's Title Guarantee:** The Seller warrants, represents and guarantees that he has and will convey a certificate of title, properly executed, valid in the state of Buyer's business and clear of all liens and encumbrances (except current year DMV fees in California), and that he will warrant and defend the title against the claims and demands of all persons whatsoever. Paperless titles (i.e. Washington State) will not be accepted.

**Late Title:** Seller has 21 days from date of sale to provide auction with negotiable title (Sale day is day #1). Seller may announce "delayed title", which will extend the time period to 35 days from date of sale. (See DAA Title Arbitration Policy on NAAA Arbitration Policy Addendum).

**Caution:** The Auction cautions buyers from reselling vehicles prior to receiving title from Auction. Buyers will only be entitled to reasonable transportation expenses if sale is rescinded due to title delay. Reconditioning expenses and loss of profit will not be reimbursed to buyer.

**Clerical Error:** If the title problem is due to a clerical or coding error, or incomplete documentation, the Auction shall be given reasonable time after receiving notice to have the error corrected. Rejection of a purchased vehicle under these circumstances will be at the sole discretion of the Auction.

**Procedure:** Whenever any claim is made by any person against the title of a vehicle, whether by suit or otherwise, the Buyer shall, immediately after becoming aware of said claim, notify the Auction, giving full particulars of the claim; and shall cooperate fully in defending any legal action and in taking other steps to minimize possible loss.

The Buyer shall not surrender possession of the vehicle, except as required by legal process, to any claimant, nor shall Buyer voluntarily pay or acknowledge the validity of any claim, without the prior approval of the Auction. Time is of the essence. Any failure on the part of the Buyer to notify the Auction of any claim in a timely manner or failure of the Buyer to cooperate in defending any such claim shall relieve the Auction of liability under this guarantee.

## **ODOMETER DISCLOSURE**

**Seller's Odometer Disclosure:** Seller must make an odometer disclosure that is complete and accurate in all respects for each vehicle. The Seller warrants, represents and guarantees that the odometer disclosure information is complete and correct.

## **ARBITRATION**

DAA of Alaska has adopted the NAAA (National Auto Auction Association) Arbitration Policy for "In-Lane" and "On-Line" vehicle sales. This policy is used as the guideline for arbitrating disputes between buying and selling dealers at the auction. These guidelines are used in disputes involving title/odometer, mechanical, flood damage, and body & frame issues. In instances where there are rules and policies unique to DAA of Alaska, we refer to the "DAA Arbitration Policy Addendum" for clarification. We suggest that all registered dealers review and familiarize themselves with these policies.

### ***Important reminders concerning Arbitration:***

**There shall be no arbitration** unless the Buyer notifies the Auction Arbitration Manager and provides a completed arbitration form specifically identifying all covered defects; failure to direct all arbitration inquiries to Arbitration Manager or Arbitration Personnel will cause vehicle to be ineligible for arbitration.

**Manufacturer Defects:** Any mechanical defect which the manufacturer or franchised dealership's certified technician deem normal or inherent in a particular vehicle (e.g., '96 & newer Jeep differential noise) shall not be subject to arbitration.

**Arbitration Fees:** See the local fee schedule for amounts and handling of arbitration and inspection fees

**Sale and Buyer Fees:** Seller may be charged the Sale Fee and Buyer Fee on a rejected vehicle if the auction determines that there is a willful disregard for the disclosure requirements

**Repairs & Resolution:** A buyer may not rescind any sale that is entered into arbitration, under these rules and policies where the following apply:

- ✓ The cost of repair is less than \$500 (as determined by the auction)
- ✓ The Seller is willing to pay for said repairs
- ✓ The repairs are completed within seven calendar days of the original sale date (Sale Day is day 1)

**Seller Notification:** The Auction will make every effort to notify Seller when a vehicle is placed in arbitration. Failure of a Seller to receive notification will not affect the validity of the arbitration.

**Buyer Verification:** The Buyer must verify the following:

- **Before bidding on a vehicle** - the accuracy of any information in catalogs, handouts, or on windshields or vehicle number cards (such as miles, years, make, model, etc.). Buyer is responsible to listen to all announcements made by Auctioneer and to observe all notices posted on the lane monitors.

- **Before signing the sales invoice** - vehicle description, odometer disclosure, bid price, and announcements. Any discrepancies must be resolved before signing the invoice.
- **Before leaving the Auction on sale day** - vehicle year, make, model, equipment, condition, and odometer reading.
- **Before accruing any charges other than transport** - that the vehicle has no flood or structural damage or repair, no covered mechanical defects (*if sold with guarantee*), no missing or inoperable airbags, the odometer is operational, and that the buyer has obtained title from the Auction.

**Vehicle Return:** If a vehicle is eligible for arbitration or rescission after it has left the Auction, the Buyer will have 72 hours to return it to the Auction in the same or better condition. The Auction may, at its discretion, allow longer if circumstances warrant.

**Title or Odometer History Reports:** Commercial title and odometer reporting services are not considered conclusive evidence of a material defect in either the title or odometer. *However, salvage titles and odometer discrepancies reported by a state DMV office will be accepted as evidence of a material defect in either title or odometer.* In many cases, upon request, the Auction's data-correction service will be able to correct erroneous data displayed on commercial title and odometer reports.

**Arbitration Disputes:** In the case of a disputed diagnosis, the Auction reserves the right to defer to an independent third party, principally the manufacturer's franchise dealer. The Arbitration Manager will rule on the third-party diagnosis as it relates to the Auction's arbitration policy.

**The decision of the Arbitration Manager shall be final and all parties agree and consent to the auction's right to interpret and modify these rules and policies without notice or limitation.**

## ***BUYER REIMBURSEMENT BY SELLER***

In the event a sale is rescinded, the Seller shall be responsible to reimburse the Buyer as follows:

**Sale Price:** The amount Buyer actually paid for the vehicle including the bid amount and Buyer's Fee.

**Buyer's Expenses:** Buyer's reasonable transportation expenses as supported by adequate documentation will be reimbursed up to the sale price of the vehicle, not to exceed \$500 *as follows:*

- **Misrepresentation of Vehicle Description, Equipment, or Odometer Reading:** There will be no expense reimbursement. (*Recommend that buyer verifies prior to leaving auction.*)
- **Structural or Flood Damage, Inoperable Odometer or Missing or Deployed Airbags:** Buyer will be reimbursed for transport costs only.
- **Rescinded or rejected sales due to late title, defective title, or odometer title discrepancy:** Buyer to be reimbursed for transport cost only. There will be no reimbursement for reconditioning, lost profit, dealer pack, trade over allowance, floor planning or finance fees, interest or other indirect expenses.

## **PAYMENT**

**Payment Options:** Newly registered dealers with the Auction will be required to pay by cash or cashier's check for the first 6 months. After this time period, the dealer may apply for check writing privileges.

Buyer must pay for each vehicle on the day of sale. Payment must include bid price, Buyer's Fee, and all other applicable fees and charges.

- **Company Check:** A dealer may pay for vehicles with company checks *ONLY* after they have been approved by the Auction for check writing privileges; checks must be drawn on the buying dealer's *business* account. One check should be submitted for each vehicle. The Auction will deposit your check when the title is received by Auction.
- **Inventory Financing:** The Auction provides several inventory financing programs to pre-approved dealers.
- **Cash Payment:** A maximum of \$5,000 cash will be accepted per auction from any single buying dealer.

**Returned Items Policy:** A returned item charge of \$150.00 will be assessed on all returned drafts and checks. All returned items must be paid within 24 hours by cashier's check or cash, or:

- Notice will be sent to the Bonding Company & DMV;
- Buyer privileges will be restricted; and
- Interest will be accrued at the highest legal rate from the date of return. Buyer privileges of repeated abusers of the draft/check policy will be revoked.

**Storage Fees:** Vehicles left on the Auction premises for more than five days after purchase or after cancellation of consignment shall be subject to storage at the Auction's normal daily storage rate, may be transported to owner's place of business at the owner's expense, or sold at lien sale to offset fees accrued.